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No.

In The

Supreme Court of The United States

October Term, 1993

PSJ Corp., L. Shieh, et al.,

Petitioners,

vs.

Superior Courts, Court of Appeal, and Supreme Court of The State of California,

Respondents,

Fulbright & Jaworski, et. al.,
O'Melveny & Meyers, et al.,
A. Castellano, et al., and
W. Christopher, et al.,

Real Parties
In Interest.

Petition for Writ of Certiorari to the Supreme Court of the State of California

PETITION FOR WRIT OF CERTIORARI

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129 pp

THE QUESTIONS PRESENTED FOR REVIEW

On January 8, 1993, Petitioners' then lawyers, not Petitioners, filed a disqualification against Judge Kakita. Judge Kakita did not answer the disqualification within 10 days as required by California Code of Civil Procedue, Section 170.3 (c)(4). California courts refused to comply with the automatic disqualification law, but issued an order prohibiting Petitioners and their lawyers from filing any new disqualification with a threat of contempt and imposed sanctions in the amount of $5,000.00 against Petitioners' attorney Rollins and Petitioner Shieh, a party in the case. Given the foregoing, the issues are:

1. Whether the pre-filing order prohibiting Petitioners' lawyers from filing a disqualification violates Petitioners' right to counsel, right to fair trial and other federally protected rights secured by the Constitution and laws of the United States.

2. Whether the pre-filing order, which in consequence granted litigants a license to commit assault, battery, and breach of peace against Petitioners and Petitioner Shieh's family members (all of whom are non-caucasian), and to file lawsuits against Petitioners, violates Petitioners' privileges, immunities, life, liberty, property, and equal protection, under the Fourteenth Amendment of the Constitution of the United States.

3. Whether the refusal of the California courts to automatically disqualify Judge Kakita, which resulted in the consequences as stated above, violates Petitioners' right to a fair trial and other federally protected rights.

ALL PARTIES TO THE PROCEEDING

PETITIONERS:

PSJ Corp., a California Corporation ("PSJ"), Say & Say, a California Corporation ("Company"), Percy Chien and L. Shieh.

Respondents:

The Superior Courts, the Court of Appeal and the Supreme Court of the State of California

Real Parties in Interest:

Fulbright & Jaworski, et al.,
A. Castellano, et al., et al.,
W. Christopher, et al., and
O'Melveny & Meyers, et al..

TABLE OF CONTENTS

page

I. OPINIONS BELOW..... 2

II. JURISDICTION..... 4

III. FEDERAL LAW INVOLVED..... 5

IV. STATEMENT OF CASE..... 6

V. REASONS FOR GRANTING WRIT..... 12

A. The Pre-filing/pre-denial Order Prohibiting Petitioners' Lawyers from Filing disqualification Violates Petitioners'Right to Counsel, Right to Fair Trial and Other Federally Protected Rights Secured by the Constitution and Laws of the United States..... 13

a. Right To Fair Trial.....13

b. The Conduct of Justices of the Court of Appeal Violated 42 U.S.C. Section 1983 , 1988 and Other Civil Rights Laws Because of Petitioner Shieh's Color, Race, National Origin, Religion, and Language and Cultural Background..... 14

c. The Court of Appeal and the Trial Courts "Were Being Used to Harass and Injure [Petitioner Shieh], Either Because the State Courts Were Powerless To Stop Deprivation or Were in League with Those [Rich, Large, and Influential Law Firms] Which Were Bent upon Abrogation of Federally Protected Rights" (Emphasis Added.) Pulliam

v. Allen (1984) 466 U.S. 522; 104 S.Ct.1970, 1980..... 17

B. The Pre-filing/pre-denial Order Is Unconstitutional 19

VI. CONCLUSION..... 22

APPENDIX..... 23

TABLE OF CASES

page

Pulliam v. Allen
466 U.S. 522; 104 S.Ct.1970, 1980 (1984) 12

Gentile v. State Bar of Nevada
1115 Ct. 2720 (1991) 14

Lockhart v. Fretwell
113 S.Ct. 838 (1993) 14

De Long v. Hennessey
192 F. 2d 1144 (1990) 15

Mitchum v. Foster
407 U.S. 225,240; 92 S.Ct.2125,2161 (1972) 17

David Moy v. U.S
906 F.2d at 476 (1990) 20

Michael R. Wood v. Santa Barbara Chamber of Commerce
905 F.2d at 1525 (1983) 21

STATUTES

page

The California Code of Civil Procedure Section 170.3 (c) (4)..... i

The Fourteenth Amendment to the Constitution of the United States... ii

The Constitution of the United States..... ii

42 U.S.C. Section 1983..... vi

42 U.S.C. Section 1988..... vi

28 U.S.C. Section 1257 (a)..... 4

28 U.S.C. Section 1651 (a)..... 4

The California Uniform Partnership Act Section 15015..... 7

The Sixth Amendment to the Constitution of the United States..... 14

RULES

The United States Supreme Court Rule 10.1 (c)

APPENDICES

		page
A	Judgment of the California Supreme Court in Fulbright & Jaworski v. Percy Chien et al. case, September 15, 1993.....	23
B	Judgment of the California Supreme Court in Say & Say et al. v. Castellano case, September 15,1993.	25
C	Judgment of the California Supreme Court in L. Shieh v. Christopher case, September 15, 1993.....	27
D	Judgment of the California Court of Appeal in Fulbright & Jaworski v. Percy Chien et. al. case, June 30, 1993.....	29
E	Judgment of the California Court of Appeal in Say & Say et al. v. Castellano case, June 30, 1993.....	39
F	Judgment of the California Court of Appeal in L. Shieh v. Christopher case, June 30, 1993.....	50
G	Minute Order of the Superior Court of California for the County of Los Angeles, February 26, 1993.....	61
H	Minute Order of the Superior Court of California for the Courty of Los	

Angeles, February 26, 1993..... 69

I Minute Order of the Superior Court of California for the County of Los Angeles, February 26, 1993..... 77

J Minute Order of the Superior Court of California for the County of Los Angeles, March 22, 1993..... 83

K Minute Order of the Superior Court of California for the County of Los Angeles, March 29, 1993..... 87

L Minute Order of the Superior Court of California for the County of Los Angeles, March 29, 1993..... 92

M Minute Order of the Superior Court of California for the County of Los Angeles, March 29, 1993..... 91

N California Code of Civil Procedure Section 391..... 102

O California Code of Civil Procedure Section 170.3 (c) (4)..... 113

P Declaration of Karen Karegezyan.... 115

IN THE SUPREME COURT OF

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October Term, 1993

PSJ Corp.,a California Corporation,
Say & Say,a California Corporation,
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Petitioners,

vs.

The Superior Courts, the Court of
Appeal and the Supreme Court of
the State of California,

Respondents,

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A. Castellano, et al., et al.,
W. Christopher, et al., and
O' Melveny & Meyers, et al.,

Real Parties
In Interest.

To the Honorable William Rehnquist, the Chief Justice, and Associate Justices of the Supreme Court of the United States.

PSJ Corp., a California Corporation ("PSJ"), Say & Say, a California Corporation ("Company"), Percy Chien ("Chien") and L. Shieh ("Shieh"), the Petitioners herein, pray that a writ of certiorari be issued to review the judgments of California courts.

I. OPINIONS BELOW

The opinions of the Supreme Court of California dated September 15, 1993 which denied the petition for review are unreported and are attached in petitioners' Appendix A, B and C. The judgments of the Court of Appeal

dated June 30, 1993 (petition for rehearing denied upholding Orange Superior Court's order and imposing $15,000.00 sanctions against Petitioner Shieh and attorney Rollins) are attached in the Appendix D, E and F. The orders of the Los Angeles Superior Court of the State of California dated February 26, 1993 by Judge Ted Millard, which imposed a pre-filing/pre-denial order upon the petitioners and their attorneys are attached in the Appendix H, I and J. The declaration of Karen Karagezyan, messenger of the Best Plus, proving his service of the disqualification for cause against Judge Kakita, dated Janaury 8, 1993, in Fulbright & Jaworski v. PSJ, Percy Chien, Shieh Case No. BC041515 ("FJ case"), Say & Say, et al. v. Castellano, et al., BC 059833 ("Castellano case"), and Shieh

et al. v. O'Melveny & Meyers, et al. BC 054981 ("OMM case") is attached in the Appendix P.

II. Jurisdiction

The judgment of the Supreme Court of California was entered on September 15, 1993, which summarily denied the petitioners' petition for review in cases involving federally and constitutionally protected rights and issues. Under Title 28 U.S.C. 1257 (a), Title 28 U.S.C. 1651 (a) and the United States Supreme Court ("this Court") Rule 10.1 (c), this Court will review a state judgment by writ of certiorari, if "a state court ... has decided an important question of federal law which has not been, but should be, settled by this court, or has decided a federal question in a way

that conflicts with applicable decisions of this Court."

III. FEDERAL LAW INVOLVED

1. The pre-filing/pre-denial order prohibiting Petitioners' lawyers from filing a disqualification violates Petitioners' right to counsel, right to fair trial and other federally protected rights secured by the Constitution and laws of the United States.

2. The pre-filing/pre-denial order, which in consequence granted Caucasian litigants free reign to commit assault, battery, and breach of the peace against Petitioners and Petitioner Shieh's family members (all of whom are non-caucasian), and to file endless lawsuits against Petitioners, violates Petitioners' privileges,

immunities, life, liberty, property, and equal protection, under the Fourteenth Amendment of the Constitution of the United States.

3. The refusal of the California courts to automatically disqualify Judge Kakita has resulted in the consequence as stated above, violates Petitioners' right to fair trial and other federally protected rights.

IV. STATEMENT OF CASE

In or about October, 1992, the California courts assigned all of cases, whether Petitioner Shieh is a plaintiff or defendant, to California Superior court Judge Kakita. Before he reviewed the cases, he stated that he

would get rid of all of Shieh's cases. Judge Kakita admitted that he made such statements in his subsequent declaration, under penalty of perjury. Judge Kakita did exactly what he said.

In Say & Say, L. Shieh v. Castellano, et al., BC059833 ("Castellano case") and Shieh et al. v. O'Melveny & Meyers, et al. BC 054981 ("OMM case"), Judge Kakita (1) declared Shieh a vexatious litigant ("VL") simply because federal Judge Pfaelzer made a comment to his lawyer that it is ridiculous to hold general partners liable for other general partners' actions under s 15015 of the California Uniform Partnership Act, (2) issued a pre-filing/pre-denial order, permanently barring Shieh and his lawyers, in effect, from filing any new litigation in California courts, (3) issued two body attachments without

bail, (4) ordered Shieh to post more than $ 44.5 million security for in pro per defendants' alleged in pro per attorneys' fees, (5) imposed more than $ 100,000 sanctions against Shieh and Shien's attorneys because in pro per defendant Highberger's one frivolous motion and one frivolous reply paper cost more than $ 100,000.00.

In Fulbright & Jaworski v. Shieh, Hollingsworth, et al. L.A.S.C. Case No. BC 041515 ("FJ Case"), Judge Kakita refused to vacate a default against Shieh, PSJ Corp., and Percy Chien even if the court has no jurisdiction to enter default.

In or about October, 1992, petitioners' lawyers, not petitioners, filed a peremptory challenge against Judge Kakita. Judge Kakita refused to recuse himself.

On Janaury 8, 1993, Petitioners' lawyers, not Petitioners, filed a disqualification for cause against Judge Kakita. Judge Kakita refused to answer or respond within 10 days and was thus automatically disqualified under 170.3 (c) (4) of the California Code of Civil Procedure ("CCP"). California Courts refused to assigne a new judge. Instead, Judge Millard of the Orange County Superior Court issued a pre-filing/pre-denial order prohibiting Petitioners and Petitioners' lawyers from filing any disqualification "for life". Justice Spencer of the California Court of Appeal created a false rendition of facts and sanctioned Shieh and his lawyers claming that Shieh was responsible in requesting his attorney to file a writ of mandate when Judge Millard refused to "reconsider and

clarify" why Millard failed to consider the issues of "automatic disqualification".

As this Court will review several subsequent petitions for certiorari, the pre-filing order has resulted in the following consequences:

1. Caucasian litigants started to commit assault and battery, such as Gary Hollingsworth on June 9, 1993, and assault and breach of the peace, such as California lawyers Peter Mason, David Eisen and D. Jay Ritt, against Shieh, his one year old baby and his family members. Because California courts refused to disqualify Judge Kakita based on the peremptory challenge and automatic disqualification, Judge Kakita has issued a pre-denial order denying Shieh's rights to file a complaint, or

cross-complaint against the above-mentioned Caucasian lawyers. Justice Spencer extended such order and prohibited both Shieh and all of Shieh's lawyers from filing complaints, appeals and writs.

All requests for pre-filing permission of Petitioners complaints and appeals filed by Petitioners' lawyers were automatically dismissed without notice and hearings. The California Supreme Court has completely ignored them.

3. Shieh has been and will continue to be subject to assault and battery, and breach of the peace, because his right to sue was completely deprived by the California Courts, as all complaints, appeals and writs are subject to automatic dismissal.

4. Caucasian litigants took advantages of such pre-filing order and

filed numerous lawsuits against Shieh. Because California courts deprived Shieh's right to counsel and right to defend, four (4) separate default judgments were entered against Shieh without notice and without hearing.

V. REASONS FOR GRANTING WRIT

This Court's review is absolutely necessary because the California state courts "were being used to harass and injure [Petitioners], either because the state courts were powerless to stop deprivation or were in league with those [rich, large, and influential law firms] which were bent upon abrogation of federally protected rights", Pulliam v. Allen, (1984) 466 U.S. 522; 104 S. Ct. 1970, 1980. All of Petitioners' constitutionally and federally

protected rights were completely, permanently and totally deprived by the California courts. There is absolutely no way of access to the California State Courts and all and wrongdoers are thus exempt from justice.

I. THE PRE-FILING/PRE-DENIAL ORDER PROHIBITING PETITIONERS' LAWYERS FROM FILING A DISQUALIFICATION VIOLATES PETITIONERS' RIGHT TO COUNSEL, RIGHT TO FAIR TRIAL AND OTHER FEDERALLY PROTECTED RIGHTS SECURED BY THE CONSTITUTION AND LAWS OF THE UNITED STATES.

A. Right To Fair Trial

Few, if any, interests under the Constitution are more fundamental than the right to have a fair trial. Gentile

v. State Bar of Nevada (1991) 111 S.Ct. 2720. The Sixth Amendment right to counsel exists in order to protect the fundamental right to fair trial. Lockhart v. Fretwell (1993) 113 S. Ct. 838. In civil litigation, a party is entitled to have an impartial and fair tribunal to hear the case. The California courts discriminated against Petitioners by refusing to apply the same peremptory challenge and automatic disqualification for minority litigants.

B. The Conduct Of Justices Of the Court Of Appeal Violated The 42 U.S.C. Sections 1983, 1988 And Other Civil Rights Laws Because Of Petitioner Shieh's Color, Race, National Origin, Religion, And language And Cultural Background

All appeals filed by Petitioners' lawyers, were automatically dismissed without notice and without hearing by the Court of Appeal, through Justices Spencer and Turner. Justice Spencer of Court of Appeal of California also issued an OSC Re: Dismissal of Appeals and Imposition of Sanctions in the Castellano case in retaliation against Petitioners and their counsel.

The pre-denial order violates the standards set forth in De Long v. Hennessey, (1990) 192 F. 2d 1144, because,

"(1) the record does not show that [plaintiffs were] provided with an opportunity to oppose the order before it was entered;

(2) the district court [here, California Superior Courts and California Court of Appeal] did not

create an adequate record for review;

(3) the district court [here, California Superior Courts and California Court of Appeal] failed to make a substantive finding as to the frivolous or harassing nature of De Long's [here, plaintiffs'] actions; and

(4) the district court's order was overly broad."

More importantly, the orders and judgments of the Justices in the California Court of Appeal have specifically infringed upon Petitioners' fundamental rights as guaranteed by the U.S. Constitution, by the 42 U.S.C. Section 1983, 1988 and other federal laws, and that the conduct, intent and motives of the Justices in the Court of Appeal unconstitutionally and illegally discriminate and retaliate against

Petitioners on the basis of his race, color, national origin, religion, etc.

C. The Court of Appeal And the Trial Courts "Were Being Used To Harass And Injure [Petitioner Shieh], Either Because the State Courts Were Powerless To Stop Deprivation Or Were In League With Those [Rich, Large, And Influential Law Firms] Which Were Bent Upon Abrogation of Federally Protected Rights" (Emphasis Added.) Pulliam v. Allen, (1984) 466 U.S. 522; 104 S. Ct. 1970, 1980

In Mitchum v. Foster, (1972) 407 U.S. 225, 240; 92 S. Ct. 2125, 2161, the Court stated that "state courts were being used to harass and injure individuals, either because the state courts were powerless to stop deprivations or were in league with

those who were bent upon abrogation of federally protected rights". (Emphasis added.) This is precisely the case here. The trial courts and the Court of Appeal were or are being used by large, rich and influential law firms to harass and injure Petitioner Shieh, and were or are in league with such law firms which were or are bent upon abrogation of federally protected rights.

The Judges/Justices in trial court and the Court of Appeal knowingly, intentionally and maliciously disregarded the clear and plain language of the federal law and the U.S. Constitution, and created totally false and outrageous stories without any facts and evidence, to justify their unconstitutional (1) declaration of Shieh as a vexatious litigant, (2) pre-denial orders and (3) excessive

security. The judgments of trial courts and the Court of Appeal against Petitioners are a total and permanent deprivation of Petitioners' right to counsel, right to sue, and their fundamental right of access to the court, as well as totally and permanently silencing Petitioners' voice in asserting their First Amendment Rights to defend themselves or to support their causes of action.

II. Pre-filing/pre-denial Order Is Unconstitutional

To the extent that the restraining order lasts forever, it sounds like a death penalty and even much worse than a life imprisonment in this respect, because, even a sentenced criminal is entitled to certain relief remedies such as parole, probation, conditional release, rehabilitation,

pardon, etc..

Right of potential litigants to use of judicial procedures is constitutionally protected by prohibitions against state deprivation of property without due process of law. A potential litigant is protected by constitutional right of access to courts for all persons.

The pre-filing order has no boundaries as imposed by Judge Millard and Judge Kakita in the present case. In David Moy v. United States (1990) 906 F.2d at 476, U.S. Court of Appeals for Ninth Circuit states: "the Court order requiring a litigant to obtain court approval prior to filing of any complaint was overly broad; the requirement should have been imposed only on subjects covered by litigant's

prior frivolous pleadings ... We cannot predict what harm might come to him as a result, and he should not be forced to predict it either. What he does know is that a Sword of Damocles hangs over his hopes for federal access for the foreseeable future."

Under federal law, the pre-filing order must be narrowly tailored to prevent infringement on the litigator's right of access to the courts. Steven M. De Long v. Michael Hennessey (1990) 912 F.2d 1144; 1990 US App. Lexis 15253. If restrictive orders are used too freely or couched in overly broad terms, injunctions against future litigation may block free access to the courts. Michael R. Wood v. Santa Barbara Chamber of Commerce (1983) 705 F.2d at 1525.

VI. CONCLUSION

For the foregoing reasons, the Petition for a writ of certiorari should be granted.

Dated: December 9, 1993

Respectfully submitted

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